

# EXHIBIT C

Highly Confidential - Subject to Further Confidentiality Review

1                   UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

3 THE CITY OF HUNTINGTON,  
4 Plaintiff,

Civil Action No.

5 v. 3:17-01362

6 AMERISOURCEBERGEN DRUG  
CORPORATION, et al.,

7

## Defendants.

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9 CABELL COUNTY COMMISSION,  
10 Plaintiff,

Civil Action No.

11 v. 3:17-01665

12 AMERISOURCEBERGEN DRUG  
CORPORATION, et al.,

13

## Defendants.

14

15 CROSS-NOTICED CAPTIONS ON FOLLOWING PAGES

16

17 Thursday, July 30, 2020

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20                    Remote Oral/Videotaped Deposition of  
21                    JOHN M. GRAY, held at the location of the  
22                    witness, commencing at 9:38 a.m. EDT on the  
23                    above date, before Michael E. Miller,  
                      Certified Court Reporter, Registered  
                      Diplomate Reporter, Certified Realtime  
                      Reporter and Notary Public.

24 GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
25 deps@golkow.com

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1	STATE OF RHODE ISLAND	)	SUPERIOR COURT
	PROVIDENCE, SC	)	
2		)	C.A. NO.
	STATE OF RHODE ISLAND by	)	PC-2018-4555
3	and through PETER	)	
	NERONHA, ATTORNEY	)	
4	GENERAL, Plaintiff,	)	
		)	
5	v.	)	
		)	
6	PURDUE PHARMA, LP, et	)	
	al, Defendants.	)	
7		)	

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9 -----

10

IN THE CIRCUIT COURT FOR  
KANAWHA COUNTY, WEST VIRGINIA

11

12	IN RE: OPIOID LITIGATION	)	Civil Action No.
		)	19-C9000
		)	

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1                   Q.         How many times have you  
2         testified in front of Congress on behalf of  
3         the HDMA?

4                   A.         How many times did I testify  
5         when?

6                   Q.         In your career, how many times  
7         have you presented to Congress, sir, or the  
8         Senate?

9                   A.         Probably 10 or 12 times at  
10       least.

11                  Q.         Sir, the message, the public  
12       relations message to Congress, to the Senate,  
13       to state legislatures, to governors, to the  
14       media, was that the distributors were  
15       committed, were committed to stopping  
16       diversion and abuse and addiction. That was  
17       the message, true?

18                  A.         I have to go back and look at  
19       all those. It's been many years since I  
20       looked through all those proposals. And most  
21       of these proposal items were never used.

22                  Q.         I'm not talking about the --  
23       sir, I'm not talking about proposals. I'm  
24       talking the actual message at the end of the  
25       day, the message that you're delivering to

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1                   Q.         Do you remember when we looked  
2         back and we talked about it earlier, we  
3         talked about the Crisis Playbook, where your  
4         PR firm said, hey, if anybody ever asks, make  
5         sure you tell them that the distributors  
6         always put safety over money? Do you  
7         remember that, sir, we talked about that?

8                   A.         No, not really.

9                   Q.         Always put safety over money.  
10                  So what we have here -- and  
11         again, you can correct me if I'm wrong, but  
12         the RAND study that was going to look for  
13         answers and save lives never went forward,  
14         the partnership study that was going to look  
15         for answers to try to save lives was never  
16         funded, and now the task force summit in  
17         West Virginia is canceled the day before it's  
18         supposed to get off the ground because you're  
19         worried about a lawsuit?

20                  A.         No.

21                  MR. WEINSTEIN: Wait for the  
22         question, John. Wait for a question.

23                  THE WITNESS: Yeah.

24         BY MR. KENNEDY:

25                  Q.         Let me ask you, sir. Is

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1                   A.         Yep.

2                   Q.         The HDMA played a significant  
3                   role in getting that legislation passed.

4                   Would that be true?

5                   MR. WEINSTEIN: Objection to  
6                   form.

7                   A.         True.

8   BY MR. KENNEDY:

9                   Q.         Yes, sir?

10                  A.         I said true.

11                  Q.         All right. I'm sorry. In  
12                  fact, you folks hired a third-party outside  
13                  lobbyist group to work directly on that  
14                  legislation, did you not?

15                  A.         Well, we have a number of them.  
16                  I don't know if they're hired just for that,  
17                  but they might have worked on it, I'm sure.

18                  Q.         Do you remember interviewing  
19                  different lobbyist organizations and trying  
20                  to find the lobbyist group that had the  
21                  strongest relationship with Congressman  
22                  Marino?

23                  A.         Well, I didn't personally. My  
24                  staff may have.

25                  Q.         When originally drafted, the

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1 BY MR. KENNEDY:

2 Q. Did you realize that, sir?

3 A. I can't say I did or I didn't.

4 Q. Nine years before you wrote  
5 this brief, the DEA had a personal meeting  
6 with you folks and said we can't do the job  
7 ourselves. There's too many pharmacies.  
8 They told you that, did they not?

9 MR. WEINSTEIN: Objection to  
10 form.

11 A. Again, I wasn't in the room  
12 when these comments were made, so I don't  
13 know if this is exactly how they pressed it.  
14 The only thing I heard was that they expected  
15 truck drivers, which are commercial truck  
16 drivers, to sit in parking lots and watch  
17 customers going into a pharmacy. That's the  
18 only thing I heard.

19 BY MR. KENNEDY:

20 Q. Sir, you folks -- you, your  
21 executive committee, your board, McKesson,  
22 Cardinal, AmerisourceBergen, you folks wrote  
23 this amicus brief because it was your  
24 intention and it was your expectation that  
25 the Court in Masters was going to stop the

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1 enforcement actions by the DEA. That was  
2 your expectation, was it not, sir?

3 MR. WEINSTEIN: Objection to  
4 form.

5 A. No, the expectation was --  
6 yeah, the expectation was on a particular  
7 point of administrative law, which I couldn't  
8 get into with you right now, but I do  
9 remember at the time it was a specific issue,  
10 and that's what it was all about. It had  
11 nothing to do with Masters, per se. It had  
12 nothing to do with even the DEA. It was an  
13 interpretation of administrative law.

14 BY MR. KENNEDY:

15 Q. Look at Exhibit 55.

16 (Whereupon, Deposition Exhibit  
17 Gray-55, E-mail(s), HDA\_MDL\_000088021-  
18 HDA\_MDL\_000088025, was marked for  
19 identification.)

20 A. 55. Okay.

21 BY MR. KENNEDY:

22 Q. This is 55. You see the second  
23 e-mail down where -- this is the e-mail from  
24 you to Pat Kelly.

25 A. Uh-huh. Yep.

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1                   That's the Masters case, right?

2                   A.         Correct.

3                   Q.         Then you state: I think the  
4                   Masters case will stymie the DEA in pursuing  
5                   much enforcement since that outcome will  
6                   really dictate how the DEA can enforce.

7                   Is that what you stated, sir?

8                   A.         Right. That's what it says.

9                   Q.         And that was the intention of  
10                  the HDA all along, starting with the PR  
11                  program back in 2012, let's stymie  
12                  enforcement actions by the DEA. And you  
13                  finally thought you had with the Masters  
14                  case, did you not?

15                  MR. WEINSTEIN: Objection to  
16                  form.

17                  A.         That's your -- oh, I'm sorry.  
18                  That's your opinion, your interpretation.  
19                  It's not ours.

20                  BY MR. KENNEDY:

21                  Q.         Those are your words.

22                  MR. WEINSTEIN: Objection to  
23                  form.

24                  BY MR. KENNEDY:

25                  Q.         Stymied. Correct, sir?

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1 Q. You say: Only the DEA has the  
2 complete picture. Correct?

3 A. That's correct.

4 Q. And when you told Congress  
5 that, sir, that was simply not true.

6 MR. WEINSTEIN: Objection to  
7 form.

8 BY MR. KENNEDY:

9 Q. Right?

10 MR. WEINSTEIN: Objection to  
11 form.

12 BY MR. KENNEDY:

13 Q. That was not true?

14 MR. WEINSTEIN: Objection to  
15 form.

16 A. No, we did not know that to be  
17 not true.

18 BY MR. KENNEDY:

19 Q. Your talking points, look at  
20 Exhibit 29.

21 (Whereupon, Deposition Exhibit  
22 Gray-29, 10/17/16 HDA Talking Points  
23 on Resources on Prescription Drug  
24 Abuse, HDA\_MDL\_000032191 -  
25 HDA\_MDL\_000032203, was marked for

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1 to review the amicus brief before it gets  
2 filed with the Court.

3 Do you see that?

4 A. I see it.

5 Q. And at the bottom it says:

6 Please let me know as soon as possible  
7 whether or not you support filing this brief.

8 Do you see that? Maybe -- it's  
9 the final paragraph. You see that?

10 A. Yeah, got it.

11 Q. So you're asking the executive  
12 committee to review the Cardinal amicus brief  
13 that the HDA has paid to have written, and  
14 you're saying take a look at it and see if  
15 this is okay for us to file.

16 So --

17 MS. WADHWANI: Objection to  
18 form.

19 BY MR. KENNEDY:

20 Q. -- go back to the first page,  
21 go back -- go back to the first page now.

22 A. Right.

23 Q. And you'll see now the response  
24 from Dale Smith of HD Smith, starts with --  
25 it's March 5, 2012, Dale Smith is writing you

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7 I DO FURTHER CERTIFY that the  
foregoing is a verbatim transcript of the  
8 testimony as taken stenographically by and  
before me at the time, place and on the date  
9 hereinbefore set forth, to the best of my  
ability.

I DO FURTHER CERTIFY that pursuant  
to FRCP Rule 30, signature of the witness was  
not requested by the witness or other party  
before the conclusion of the deposition.

13 I DO FURTHER CERTIFY that I am  
14 neither a relative nor employee nor attorney  
15 nor counsel of any of the parties to this  
16 action, and that I am neither a relative nor  
employee of such attorney or counsel, and  
that I am not financially interested in the  
action.

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